

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS	)	
COMMISSION'S TRIENNIAL REVIEW ORDER	)	CASE NO.
REGARDING UNBUNDLING REQUIREMENTS	)	2003-00379
FOR INDIVIDUAL NETWORK ELEMENTS	)	

**CONFIDENTIALITY PETITION**  
**PURSUANT TO 807 KAR 5:001 SECTION 7**

Petitioner, BellSouth Telecommunications, Inc. ("BellSouth"), hereby moves the Public Service Commission of Kentucky (the "Commission"), pursuant to KRS 61.878 and KAR 5:001, Section 7, to classify as confidential the following information filed today: Portions of the Rebuttal Testimony of Dr. Debra J. Aron ("Aron"), specifically pages 16, 17 and 26.

As grounds for this motion, BellSouth states that a portion of the material which BellSouth is requesting confidential status is information belonging to a CLEC and some of the information is BellSouth confidential, commercially sensitive business information.

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878(1)(c)1. To qualify for this commercial information exemption and, therefore, protect the information as confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001, Section 7. The Commission

has taken the position that the statute and rules require the party to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

A portion of Aron's Rebuttal Testimony, specifically pages 16, 17 and 26, contains confidential information. The confidential material on pages 16 and 17 of Aron's testimony contains data belonging to a CLEC, namely MCI, regarding its residence and business revenues. The information is relative to the business interests of MCI and would be of interest to other carriers providing local exchange service and could be used to the detriment of MCI.

Page 26 of Aron's Rebuttal Testimony contains BellSouth information regarding DSL penetration for its smaller business customers. The information is commercially sensitive and contains confidential business information relative to the competitive interests of BellSouth. Disclosure of this data would impair the competitive business of and cause harm to BellSouth. BellSouth's competitors include alternate access providers, resellers and interexchange carriers. The Commission has approved interconnection and resale agreements between BellSouth and numerous other telephone carriers. Disclosure of the information would give BellSouth's competitors an unfair business advantage over BellSouth and could be used to the detriment of BellSouth.

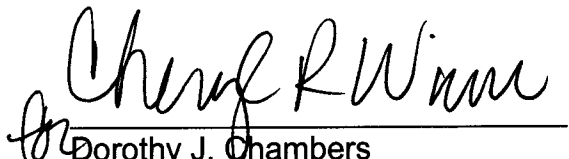
The Commission also should grant confidential treatment to the information so designated for the following reasons:

- (1) The information for which BellSouth is requesting confidential treatment is not known outside of BellSouth;

- (2) The information is not disseminated within BellSouth and is known only by those of BellSouth's employees who have a legitimate business need to know and act upon the information;
- (3) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices; and
- (4) By granting BellSouth's petition, there would be no damage to any public interest.

For these reasons, the Commission should grant BellSouth's request for confidential treatment of the information set out herein.

Respectfully submitted,

  
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